

**PROHIBITION ON UNDUE PREFERENCE AND UNDUE DISCRIMINATION**

7.1 The Licensee shall not (whether in respect of the charges or other terms or conditions applied or otherwise) show undue preference to or exercise undue discrimination against particular persons or persons of any class or description in respect of:

- (a) the provision of telecommunication services authorised by this Licence to be provided;
- (b) the connection to any of the Applicable Systems of any telecommunication apparatus or any other telecommunication system which, in either case, is not and is not to be comprised in any of the Applicable Systems; or
- (c) the granting of permission to connect such telecommunication systems or apparatus to, or to provide telecommunication services by means of, any of the Applicable Systems.

7.2 The Licensee shall be deemed to have shown such undue preference or to have exercised such undue discrimination if the Licensee unfairly favours a business to a material extent in relation to any of the things described in paragraph 7.1 above so as to place at a significant competitive disadvantage persons competing with or wishing to compete with that business.

7.3 Nothing done in any manner by the Licensee shall be regarded as undue preference or undue discrimination if, and to the extent that, the Licensee is required to do that thing in that manner by or under any provision of this Licence.

**PREPARATION OF ACCOUNTS**

8.1 The Licensee shall maintain accounting records in such a form that its business of providing the services authorised in Schedule 3 to this Licence is separately identifiable in the books of the Licensee, being records sufficient to show and explain the transactions of that part of the Licensee's business.

PAYMENT OF FEES

9.1 Subject to paragraph 9.2, the Licensee shall pay the following amounts to the Secretary of State at the times stated:

- (a) within 30 days of the grant of the Licence, the sum of £500 and
- (b) provided that the Licensee is given at least 30 days notice in writing, on or following each anniversary of that date such amount as may be determined by the Director to be a reasonable proportion of the estimated cost likely to be incurred by him in the regulation and enforcement of this Licence and in the exercise of his other functions.

**NOTIFICATION OF CHANGE IN SHAREHOLDING**

10.1 The Licensee shall notify the Secretary of State if an undertaking becomes a Parent Undertaking in relation to the Licensee.

10.2 Subject to paragraph 10.3 below, the Licensee shall notify the Secretary of State of:

- (a) any change in the proportion of the Shares held in a Relevant Company by any person;
- (b) the acquisition of any Shares in a Relevant Company by a person not already holding such Shares, and the proportion of such Shares held by that person immediately after that acquisition.

10.3 The Licensee shall be obliged to notify the Secretary of State of any acquisition of Shares or change in the Shareholding of a Relevant Company by any person only if, by reason of that acquisition or change, the total number of Shares in that Relevant Company held by that person immediately after that change or acquisition:

- (a) exceeds 15 per cent of the total number of Shares in that company (where it did not exceed 15 per cent prior to that change or acquisition);
- (b) exceeds 30 per cent of the total number of Shares in that company (where it did not exceed 30 per cent prior to that change or acquisition); or
- (c) exceeds 50 per cent of the total number of Shares in that company (where it did not exceed 50 per cent prior to that change or acquisition).

10.4 In any case referred to in 10.1 or 10.2 above, notification shall be given by a date which is 30 days prior to the taking effect of such change or acquisition, as the case may be, or as soon as practicable after that date.

10.5 In this Condition:

- (a) "Parent Undertaking" has the same meaning as in section 258 of the Companies Act 1985;

(b) "Relevant Company" means:

(i) the Licensee: or

(ii) a Parent Undertaking in relation to the Licensee;  
and

(c) "Shares" has the same meaning as in section 259(2) of the Companies Act 1985 and the term "Shareholding" is to be construed accordingly.

**INTELLECTUAL PROPERTY**

11.1 Where it appears to the Director that any Relevant Intellectual Property Right has been, is being or is likely to be exercised (whether by the Licensee or by any other person in pursuance of an agreement, arrangement or concerted practice to which the Licensee is a party) so as to prevent:

- (a) any telecommunication system, which may lawfully be connected to the Applicable Systems, from being so connected either at all or on reasonable charges, terms and conditions; or
- (b) any service, which may lawfully be provided or obtained by means of any telecommunication system connected to any of the Applicable Systems, from being so provided or obtained either at all or on reasonable charges, terms and conditions,

he may give a direction in writing to the Licensee in accordance with paragraphs 11.2 or 11.3 below.

11.2 Where the exercise of a Relevant Intellectual Property Right prevents a product from being made available either at all or on reasonable charges, terms and conditions to a person wishing lawfully to connect or to have connected a telecommunication system to the Applicable Systems or to provide or obtain a service of a type described in sub-paragraph 11.1(b) above the Director may direct the Licensee to take such steps as are within the power of the Licensee and are, in the opinion of the Director, reasonable and necessary in all the circumstances to secure that the product is made available to that person on charges, terms and conditions acceptable to that person or which (in default of agreement) are, in the opinion of the Director, reasonable to enable such connection to be made or such a service to be provided or obtained or such a product to be so available.

11.3 Where paragraph 11.1 applies in circumstances other than those described in paragraph 11.2, the Director may direct the Licensee to take such steps as are within the power of the Licensee and are, in the opinion of the Director, reasonable in all the circumstances to secure that the person wishing to make such a connection or to provide or obtain such a service is enabled to make use of the Relevant Intellectual Property Right, for the purpose of making the connection or of providing or obtaining the service, upon charges, terms and conditions acceptable to that person or which (in default of agreement) are, in the opinion of the Director, reasonable for such purposes.

11.4 In this Condition:

"Group" means a group of companies consisting of a company and its Subsidiaries of which the Licensee is a member;

"Industrial or Intellectual Property Right" includes without prejudice to its generality, patents, registered designs, know how and copyright;

"Relevant Intellectual Property Right" means any Industrial or Intellectual Property Right which is subject to an agreement, an arrangement or concerted practice to which the Licensee or a member of the Licensee's Group is a party.

11.5 Nothing in this Condition shall require the Licensee to do anything which would contravene the terms of or would result in revocation of a licence or assignment of a Relevant Intellectual Property Right granted or made to the Licensee or a member of the Licensee's Group on or before the date on which this Licence enters into force or which would result in the Licensee or a member of the Licensee's Group incurring any liability under such a licence or assignment.

**REQUIREMENT TO FURNISH INFORMATION TO THE DIRECTOR**

12.1 .The Licensee shall furnish or procure and furnish to the Director, in such manner and at such times as the Director may request, such documents, accounts, estimates, returns or other information as he may reasonably require for the purpose of exercising the functions assigned or transferred to him by or under Parts II and III of the Act.

12.2 In making any such request the Director shall ensure that no undue burden is imposed on the Licensee in procuring and furnishing such information and that the Licensee is not required to procure or furnish information which would not normally be available, unless the Director considers such information essential to enable him to exercise his functions.

12.3 The Licensee shall permit the Director and any person authorised by him in writing to inspect the Applicable Systems at any reasonable time for the purpose of verifying whether:

- (a) the Licensee is running the Applicable Systems in accordance with this Licence; or
- (b) the connection or the proposed connection of any other telecommunication system to the Applicable Systems causes or would cause any contravention of the Licence under which that other system is run.

12.4 If the Licensee is convicted of an offence under section 5 of the Act relating to the Applicable Systems, the Licensee shall, not later than fourteen days after the expiry of the Appeal Period, notify the Director of such conviction, specifying the offence, the date of such conviction, the name and address of the Court concerned and the penalty imposed.



EXCEPTIONS AND LIMITATIONS ON CONDITIONS IN SCHEDULE 1

13.1 Unless the context otherwise requires, the Licensee's obligations under these Conditions have effect subject to the following exceptions and limitations.

13.2 The Licensee is not obliged to do anything which is not practicable.

13.3 The Licensee shall not be held to have failed to comply with an obligation imposed upon the Licensee by or under these Conditions if (and to the extent that) the Licensee is prevented from complying with that obligation by any physical, topographical or other natural obstacle, by the malfunction or failure of any Apparatus or equipment owing to circumstances beyond the control of the Licensee, by the act of any national authority, local authority or international organisation or as the result of fire, flood, explosion, accident, emergency, riot or war.

## SCHEDULE 2: REVOCATION

1           The Secretary of State or the Director (as the case may be) may at any time revoke this Licence in respect of any of the Applicable Systems by notice in writing given to the Licensee in any of the following circumstances:

- (a) if the Licensee agrees in writing with the Secretary of State or the Director that this Licence should be revoked; or
- (b) if the Director receives notification under Condition 12.4 of Schedule 1 that the Licensee has been convicted of an offence under section 5 of the Act which involved the use of the Applicable Systems, or in default of the Licensee giving such notification, not later than three months after the Director first having had actual notice of the conviction, or the expiry of the Appeal Period, whichever is the later; or
- (c) if the Licensee;
  - (i) has given a notification to the Secretary of State under Condition 10 of Schedule 1 to this Licence and the Secretary of State has notified the Licensee in writing within 21 days of receiving such notification that he is minded to revoke this Licence on the grounds that the change, acquisition or arrangement so notified would in his opinion be against the interests of national security or relations with the Government of a country or territory outside the United Kingdom; or
  - (ii) commits any breach of Condition 10 of Schedule 1 to this Licence;and in either case the change, acquisition and arrangement takes effect; or
- (d) where the Licensee has failed to comply with a final order (or a provisional order confirmed) under section 16 of the Act and the Secretary of State or the Director, as the case may be, has given the Licensee not less than 30 days' notice in writing that, if the Licensee fails to comply with the order within that period of 30 days, he intends to revoke the Licence, provided that no such notice of intention shall be given where the question of the validity of the order is the subject of any court proceedings, and where that question becomes so subject during the 30 day notice period, that period shall cease to run until the final disposal of those proceedings (including any Appeal); or

(e) if the Licensee:

- (i) is deemed to be unable to pay its debts (within the meaning of Section 123 of the Insolvency Act 1986 as applied for the purposes of this Licence by paragraph 2(b) below), convenes any meeting with its creditors generally with a view to the general readjustment or rescheduling of its indebtedness or makes a general assignment for the benefit of its creditors generally; or
- (ii) enters into receivership or liquidation; or
- (iii) ceases to provide telecommunication services of the type authorised in paragraph 3 of Schedule 3 to this Licence; or
- (f) if the Licensee or any other person takes any action for the voluntary winding-up or dissolution of the Licensee; or
- (g) if the Licensee enters into any scheme of arrangement under the Insolvency Act 1986 (other than in any such case for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Secretary of State); or
- (h) if a receiver, trustee or similar officer of the Licensee, or of all or any material part of the revenues and assets of it, is appointed; or
- (i) if any order is made for the compulsory winding-up or dissolution of the Licensee; or
- (j) if any amount payable under Condition 9 of Schedule 1 is unpaid 30 days after it becomes due and remains unpaid for a period of 14 days after the Secretary of State or the Director notifies the Licensee that the payment is overdue.

2 For the purposes of sub-paragraph 1(e)(i) above, in applying section 123 of the Insolvency Act 1986:

- (a) if a written demand served on the Licensee is satisfied prior to the expiry of the notice of revocation the Secretary of State, or the Director, as the case may be, shall not revoke the Licence; and
- (b) the figure of "£750", or such other money sum as may be specified from time to time pursuant to sections 123(3) and 416 of the Insolvency Act 1986, shall be deemed to be replaced by £250,000 or such higher figure as the Director may from time to time determine.

**SCHEDULE 3      AUTHORISATION TO CONNECT OTHER TELECOMMUNICATION  
SYSTEMS AND APPARATUS TO THE APPLICABLE SYSTEMS AND  
TO PROVIDE TELECOMMUNICATION SERVICES BY MEANS OF  
THE APPLICABLE SYSTEMS**

1            Nothing in the Licence removes any need to obtain any other licence that may be required under any other enactment.

Connection Authorisation

2            Subject to paragraph 1 above, this Licence authorises the connection to the Applicable Systems of:

- (a) any telecommunication system run under a Licence;
- (b) any telecommunication system run by the Crown;
- (c) telecommunication apparatus of every description comprised in a telecommunication system of a type referred to in sub-paragraphs 2(a) and (b) above; and
- (d) any hearing aid.

Service authorisation

3            Subject to paragraph 1 above this Licence authorises the provision of telecommunication services consisting in the conveyance by Wireless Telegraphy of Data Messages including switching incidental to such conveyance.

**THE APPLICABLE SYSTEMS**

The Applicable Systems are telecommunication systems of every description within the United Kingdom for the conveyance of Messages through the agency of Wireless Telegraphy.

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**ANNEX 2**

**LICENCE GRANTED UNDER SECTION 7 OF THE  
TELECOMMUNICATIONS ACT 1984 TO COGNITO GROUP LIMITED  
FOR THE RUNNING OF TELECOMMUNICATION SYSTEMS FOR THE  
PROVISION OF RADIO DATA SERVICES**



**TABLE OF CONTENTS**

**THE LICENCE**

**SCHEDULE 1: CONDITIONS INCLUDED UNDER SECTION 7 OF THE ACT**

- 1 REQUIREMENT TO PROVIDE SERVICES
- 2 REQUIREMENTS UNDER THE WIRELESS TELEGRAPHY ACT 1949
- 3 ESSENTIAL INTERFACES
- 4 COMPLIANCE WITH EUROPEAN COMMUNITY REQUIREMENTS
- 5 PRIVACY
- 6 METERING
- 7 PROHIBITION ON UNDUE PREFERENCE AND UNDUE DISCRIMINATION
- 8 PREPARATION OF ACCOUNTS
- 9 PAYMENT OF FEES
- 10 NOTIFICATION OF CHANGES IN SHAREHOLDINGS
- 11 INTELLECTUAL PROPERTY
- 12 REQUIREMENT TO FURNISH INFORMATION TO THE DIRECTOR
- 13 EXCEPTIONS AND LIMITATIONS ON OBLIGATIONS IN SCHEDULE 1

**SCHEDULE 2: REVOCATION**

**SCHEDULE 3: AUTHORISATION TO CONNECT OTHER TELECOMMUNICATION SYSTEMS AND APPARATUS TO THE APPLICABLE SYSTEMS AND TO PROVIDE TELECOMMUNICATION SERVICES BY MEANS OF THE APPLICABLE SYSTEMS.**

**ANNEX A: THE APPLICABLE SYSTEMS**

**LICENCE GRANTED UNDER SECTION 7 OF THE TELECOMMUNICATIONS ACT 1984  
TO COGNITO GROUP LIMITED TO RUN TELECOMMUNICATION SYSTEMS FOR THE  
PROVISION OF RADIO DATA SERVICES**

**The Licence**

1. The Secretary of State, in exercise of the powers conferred on him by section 7 of the Telecommunications Act 1984 ("the Act") and having consulted the Director General of Telecommunications ("the Director") hereby grants to Cognito Group Limited ("the Licensee") a Licence, for the period specified in paragraph 2, subject to the Conditions set out in Schedule 1 and to revocation as provided for in Schedule 2, to run the telecommunication systems specified in Annex A ("the Applicable Systems") and authorises the Licensee to do all or any of the acts specified in Schedule 3.

2. This Licence shall enter into force on the day which it is granted and shall be of 25 years duration.

3. In this Licence:

"Apparatus" means telecommunication apparatus within the extended definition in Schedule 2 of the Act;

"Appeal" includes further appeal and application for leave to appeal or further to appeal;

"Appeal Period" means

- (a) where the Licensee appeals against neither conviction nor sentence, the period within which such an Appeal might have been brought; or
- (b) where the Licensee appeals against conviction or sentence or both, the period ending on the date on which such an Appeal is finally disposed of;

"Data Message" means a Message which is conveyed in a digital form and which does not consist in live speech;

"Licence" means a licence granted or having effect as if granted under section 7 of the Act;

"Message" means anything falling within paragraphs (a) to (d) of section 4(1) of the Act;

"Subsidiary" has the same meaning as in section 736 of the Companies Act 1985 as substituted by section 144(1) of the Companies Act 1989;

"United Kingdom" includes any area to which the provisions of the Act apply by virtue of section 107 of the Act;

"Wireless Telegraphy", "Station for Wireless Telegraphy" and "Wireless Telegraphy Apparatus" have the same meaning as in the Wireless Telegraphy Act 1949.

4. For the purposes of the Schedules and Annex to this Licence, the "Applicable Systems" shall be taken to mean Applicable Systems that are run by the Licensee under this Licence unless the context otherwise requires.

5. The Interpretation Act 1978 shall apply for the purpose of interpreting this Licence as if it were an Act of Parliament. Any word or expression used in this Licence shall unless the context otherwise requires have the same meaning as it has in the Act. For the purpose of interpreting this Licence headings and titles shall be disregarded.

*N C Davidson*

N C DAVIDSON  
Department of Trade and Industry

18 February 1992



Telephone 071 728  
Facsimile 071 728 5883

Dave Lawson,  
Engineering & Operations Director,  
Cognito Group Ltd,  
Medway House,  
Newbury Business Park,  
Newbury,  
BERKSHIRE,  
RG13 2PZ.

3rd September 1992.

Dear Dave,

Following our meeting of 2nd September to discuss the possible reprovision of your private circuit network, I would like to report back on those items I took away for clarification.

1) Connection Charges.

In the timescales available it is not possible to ascertain exactly how far the cessation of your previous network has progressed. We estimate that approximately 50% of the circuits have been ceased.

Given an average connection charge of £1,600 per circuit the total reprovision charge for approximately 200 analogue circuits is likely to be between £160,000.00 and £320,000.00.

The cost of connection charges can be spread over the life of a long term contract if you wish. Over a three year contract this costs about an additional 33%. The payments would be in three equal amounts payable at the beginning of each year of the contract.

In addition we must not forget the approximate 200 standby exchange lines. Again, these are in the process of being ceased. Reprovision of these is then likely to cost a maximum connection charge of £30,550.00.

If the network is reprovided exactly as it previously existed then annual or quarterly rentals for the above will be the same as before, the figures for which I am sure you already have.

## 2) Timescales.

Because of the number of circuits involved in such a project we cannot promise the usual 21 working days delivery. We would need to sit down and prioritise the reprovision of circuits - hopefully we would find that a substantial number of the circuits will not yet have been ceased, but I cannot of course make any guarantees.

## 3) Terms of a new contract.

You asked what discount arrangements might be available from BT for a new network.

BT offers standard discount terms on private circuits as follows:

3 year contracts	=	3%	discount	on	rental
5 "	"	=	7%	"	"
7 "	"	=	10%	"	"

I am investigating your question about what condition of the BT license applies to you, and how this might effect the level of discount available, with our Regulatory Office. I shall come back to you as soon as I have some more information.

## 4) BT Premises for Switching Sites.

I am sorry to say that the answer to this will almost certainly be no. For security reasons BT does not offer its premises for use as customer sites.

## 5) Managed Network Service.

We discussed the possibility of a flexible deal that would be non circuit specific. One way of providing this would be for BT to offer a Managed Network Service. For an agreed sum, over an agreed period, BT would manage your network and allow certain leeway for adjustment.

The advantage to Congnito would be that your network costs would be fixed for a given period of time, and that there would be savings in resources not needed to be devoted to running the network.

While we can almost certainly offer you such a deal we cannot do so within the limited timescale available - ie by next week.

## 5) The Solution.

If you are successful in restarting your business then you will need to quickly reprovide the network. To do this a contract will need to be signed with BT in order to commence the work. In the timescale involved we may not be able to resolve the issues laid out in items 3 & 5 above. Nor will it be quickly possible to reverse the cessation process and identify exactly what has been ceased. To avoid any undue delay I suggest the following.

That a standard BT contract be signed for all the private circuits and exchange lines as follows:

**Connections Charges** - Full amounts for all circuits, but with the proviso that these will be reduced where circuits and exchange lines are found to still exist.

**Annual & Quarterly Rentals** - To apply with an agreed level of discount for the chosen length of contract, with the proviso that the contract could be replaced by a Managed Network Service contract later if desired.

This course of action would allow me set in motion the reprovision of the network with a degree of flexibility which I hope would allow you to chose BT as your preferred supplier.

I look forward to hearing from you soon concerning the future of Cognito and I hope that I will be able to assist you in relaunching the business.

Meanwhile I will report back concerning the issue of the discount and appropriate condition of the license as soon as I can.

Yours sincerely,



**cognito**

**FACSIMILE**

**Date:** Thursday, September 3, 1992

**To:** George Batten

**Fax No:** 071 728 5883

**From:** Dave Lawson

**Covering Message:**

Dear George,

Thank you for your fax of today.

Regarding your discussions with your regulatory office, can you please advise them that we operate under a licence granted under section 7 of the Telecommunications act 1984 and we have been advised by the DTI that we are a "relevant connectable system" and that as such we fall within the scope of condition 13 of the BT licence. If there is any question over this assertion, then please ask your office to make contact with me without delay since this will have a material impact on our negotiations.

I note your points regarding "the solution" but must point out that I will not enter into a commercial commitment without fully understanding what that commitment is. As I am sure that you will wish to position yourself to secure our business as quickly as possible, I would ask that you take all necessary steps to provide me with an accurate quotation for the cost of reprovision of service, and the timescales needed to effect it, as quickly as is possible.

Thank you for you assistance.

Best Regards



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Please receive 1 page including this page.  
If you do not receive all of this document, please call us on +44 (0) 635 508200.

Fax + 44 (0) 635 550783

Cognito Group Limited, Registered in England. Reg No 2170047

**cognito****FACSIMILE**

**Date:** Tuesday, September 8, 1992  
**To:** Mr. Rory Earley  
**Fax No:** 071 634 8949  
**From:** David Lawson

**Covering Message:**

Dear Rory,

Further to our telephone conversation of today, could I please ask you to confirm that Cognito Group Ltd operate a "relevant connectable system" and that, therefore, under the terms of condition 13 of the BT licence we are entitled to negotiate a mutually acceptable commercial agreement with BT for the supply of services, and that in the event of a disagreement, we are entitled to request a determination from the Director General of OFTEL.

I can confirm that Cognito Group Ltd operates it's telecommunications systems under a licence issued by the Secretary of State under Section 7 of the Telecommunications Act 1984.

*Best Regards*  
*David C. Lawson*

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Please receive 1 page including this page.  
If you do not receive all of this document, please call us on +44 (0) 635 508200.  
Fax + 44 (0) 635 550783  
→ Cognito Group Limited, Registered in England. Reg No 2170047



**FACSIMILE TRANSMISSION**

**FROM:** Rory Harley  
OFTEL

**TEL:** 071-634 8819

**FAX:** 071-634 8949

**DATE:** 9 September 1992

**TO:** David Lawson  
Cognito Group Ltd

**FAX NO:** 0635 550783

**NUMBER OF PAGES TO FOLLOW:** none

**SUPPLEMENTARY MESSAGE:**

Thank you for your facsimile of 8 September 1992. I confirm that, in OFTEL's view, Cognito Group Ltd operate a 'Relevant Connectable System' and are therefore entitled to negotiate a commercial interconnect agreement with BT. If those negotiations should fail after a reasonable time, either or both parties could approach the Director General and seek a determination of the terms that could not be mutually agreed.